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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

DECLARATION OF M. BRENT BYARS IN SUPPORT OF EPIC GAMES, INC.'S ADMINISTRATIVE MOTION TO SEAL PORTIONS OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judge: Hon. Yvonne Gonzalez Rogers

DECLARATION OF M. BRENT BYARS IN SUPPORT OF EPIC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF ITS PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW
4:20-cv-05640-YGR-TSH

I, M. Brent Byars, declare as follows:

1. I am a Senior Attorney at Cravath, Swaine & Moore LLP, counsel to Epic Games, Inc. (“Epic”) in the above-captioned actions. I am admitted to appear before this Court *pro hac vice*.

2. I submit this declaration pursuant to Civil Local Rule 79-5. The contents of this declaration are based on my personal knowledge.

3. Epic’s Proposed Findings of Fact and Conclusions of Law quote or reproduce discovery materials that Apple or third parties have designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL pursuant to the Protective Order entered in this Court. Epic is serving its Motion and Declaration on the affected third parties pursuant to Civil Local Rule 79-5(e). The following Table shows each affected third party and the corresponding numbered Finding of Fact or Conclusion of Law that may contain information provided by each party.

| Finding of Fact Paragraph Number | Affected Party |
|----------------------------------|----------------|
| 7 | Apple |
| 10 | Apple |
| 15 | Apple |
| 30 | Apple, Spotify |
| 35 | Apple |
| 39 | Apple |
| 40 | Apple |
| 42 | Apple |
| 46 | Apple |
| 47 | Apple |
| 57 | Apple |
| 59 | Apple |

| | | |
|----|------|---------------------------|
| 1 | 63.k | Apple |
| 2 | 70.b | Match Group |
| 3 | 78 | Match Group |
| 4 | 81 | Apple, Match Group |
| 5 | 85.a | Apple |
| 6 | 102 | Apple |
| 7 | 114 | Apple |
| 8 | 121 | Apple, Amazon |
| 9 | 123 | Apple |
| 10 | 124 | Apple |
| 11 | 142 | Apple |
| 12 | 147 | Match Group |
| 13 | 157 | Match Group |
| 14 | 160 | Apple |
| 15 | 161 | Apple |
| 16 | 166 | Apple |
| 17 | 174 | Apple |
| 18 | 176 | Apple |
| 19 | 192 | Apple |
| 20 | 195 | NVIDIA |
| 21 | 196 | Match Group |
| 22 | 206 | NVIDIA, Microsoft, Google |
| 23 | 207 | NVIDIA |
| 24 | 210 | Apple |

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| | | |
|----|------------------|-------------------------------------|
| 1 | 231 | Apple |
| 2 | 232 | Apple |
| 3 | 233 | Apple |
| 4 | 234 | Apple |
| 5 | 235 | Apple |
| 6 | 236 | Apple |
| 7 | 237 | Apple |
| 8 | 239 | Apple |
| 9 | 244 | Apple |
| 10 | 245 | Match Group |
| 11 | 248(c) | Apple |
| 12 | 250 | Microsoft, Facebook, Nvidia, Google |
| 13 | 259(c) | Amazon |
| 14 | 261(f) | Match Group |
| 15 | 262(a); (b); (d) | Match Group |
| 16 | 265(d) | Apple |
| 17 | 274 | Apple |
| 18 | 284 | Match Group |
| 19 | 285; 285(d) | Match Group |
| 20 | 285(g) | Apple |
| 21 | 287(c) | Uber, Apple |
| 22 | 289(c) | Match Group |
| 23 | 297(a) | Apple |
| 24 | 303 | Apple |

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| | | |
|----|----------------|--------------------|
| 1 | 305(b); 305(c) | Apple, Netflix |
| 2 | 309 | Apple |
| 3 | 313 | Apple, Uber |
| 4 | 328 | Match Group |
| 5 | 329 | Match Group |
| 6 | 332(b) | Apple, GoshenWells |
| 7 | 472(a) | Apple |
| 8 | 484(b) | Apple |
| 9 | 493(b) | Apple |
| 10 | 495(a) | Apple |
| 11 | 495(b) | Apple |
| 12 | 503 | Apple |
| 13 | 505(b) | Apple |
| 14 | 505(c) | Apple |
| 15 | 505(d) | Apple |
| 16 | 510 | Apple |
| 17 | 512 | Apple |
| 18 | 512(a) | Apple |
| 19 | 513 | Apple |
| 20 | 515 | Apple |
| 21 | 516 | Apple |
| 22 | 517 | Apple |
| 23 | 520(a) | Apple |
| 24 | 520(b) | Apple |

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| | | |
|----|--------|------------------|
| 1 | 521(d) | Apple |
| 2 | 522 | Apple |
| 3 | 525(c) | Apple |
| 4 | 526 | Apple, SourceDNA |
| 5 | 527 | Apple |
| 6 | 530(f) | Apple |
| 7 | 530(i) | Apple |
| 8 | 536(a) | Apple |
| 9 | 536(b) | Apple |
| 10 | 537 | Apple |
| 11 | 537(e) | Match |
| 12 | 537(f) | Match |
| 13 | 537(g) | Match |
| 14 | 540(c) | Apple |
| 15 | 542(a) | Apple |
| 16 | 544(a) | Apple |
| 17 | 547 | Apple |
| 18 | 549 | Apple |
| 19 | 550(e) | Apple |
| 20 | 550(g) | Apple |
| 21 | 550(i) | Apple |
| 22 | 550(j) | Apple |
| 23 | 551(a) | Apple |
| 24 | 551(b) | Apple |

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| | | |
|----|--------|---------------------|
| 1 | 551(c) | Apple |
| 2 | 552 | Apple |
| 3 | 552(a) | Apple |
| 4 | 552(b) | Apple |
| 5 | 552(c) | Apple |
| 6 | 552(d) | Apple |
| 7 | 552(e) | Apple |
| 8 | 552(f) | Apple |
| 9 | 553 | Apple |
| 10 | 560(b) | Apple, Roblox |
| 11 | 560(f) | Apple, Roblox |
| 12 | 564(a) | Apple, Amazon |
| 13 | 564(b) | Apple, Amazon |
| 14 | 564(c) | Apple, Amazon |
| 15 | 571 | Apple, Amazon, Uber |

| | | |
|----|---|-----------------------|
| 18 | | |
| 19 | Conclusion of Law Paragraph Number | Affected Party |
| 20 | 18 | Apple |
| 21 | 19 | Apple |
| 22 | 42 | Match Group |
| 23 | 59 | Apple, App Annie |
| 24 | 70 | Apple |
| 25 | 71 | Apple |
| 26 | 72 | Apple |

| | | |
|----|-----|------------------|
| 1 | 73 | Apple |
| 2 | 91 | Apple |
| 3 | 101 | Apple |
| 4 | 102 | Apple |
| 5 | 104 | Apple |
| 6 | 107 | Apple |
| 7 | 108 | Apple |
| 8 | 149 | Apple |
| 9 | 259 | Apple, App Annie |
| 10 | 274 | Apple, Microsoft |
| 11 | 295 | Apple |
| 12 | 302 | Apple |
| 13 | 310 | Apple |
| 14 | 311 | Apple |
| 15 | 358 | Apple |
| 16 | 365 | Match Group |
| 17 | 381 | Apple |

4. I have met and conferred with counsel for Apple Inc., including by telephone, in an effort to narrow the documents and testimony that the parties propose to maintain under seal. This process has resulted in narrowing the amount of designated confidential material and consequently reduced the need for provisional sealing (pursuant to Local Rule 79-5(e)) of material designated by the other party as confidential. The redacted versions of the Proposed Findings of Fact and Conclusions of Law reflect the results of that negotiation.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that I executed this declaration on April 7, 2021 in New York, New York.

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